

REMARKS

Favorable reconsideration of this application, as presently amended and in light of the following discussion, is respectfully requested.

Claims 1-2 and 4-6 are pending, with Claim 3 cancelled and Claims 1 and 4-6 amended by the present amendment.

In the Official Action, Claims 1-4 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Rydbeck et al. (U.S. Patent No. 6,108,562, hereinafter Rydbeck) in view of Molne (U.S. Patent No. 5,999,811); Claim 5 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Korpela (U.S. Patent No. 5,946,624) in view of Molne; and Claim 6 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Korpela in view Rydbeck and Molne.

Claims 1, 5 and 6 are amended to recite features recited in cancelled Claim 3. Claims 1 and 4-6 are further amended to more clearly describe and distinctly claim Applicants' invention. No new matter is added.

Briefly recapitulating, amended Claim 1 is directed to a communication terminal capable of utilizing a plurality of radio communication services respectively provided by a plurality of radio communication systems establishing a shared radio communication system. The communication terminal includes a hardware processing unit configured to perform common hardware processing necessary for utilizing the radio communication services; an IC card configured to store a plurality of communication software packages necessary for the respective radio communication services; a software selection unit configured to select one communication software package out of the communication software packages stored in the IC card for utilizing the specified and identified communication service; a software executing unit configured to execute the selected communication software package; and *a software*

acquisition unit configured to acquire via a network another communication software package stored in a remote server provided in the shared communication system.

In view of the incorporation of the features of Claim 3 into independent Claims 1, 5 and 6, Applicants submit that the rejections of Claims 1, 5 and 6 is moot.

Rydbek describes a method and apparatus for communications between a mobile telephone and at least one communications network not supported by the mobile telephone. A converter interfaces to the mobile telephone to support said communications. The converter includes a controller for controlling operations of the converter and for selecting a communications network for use by the mobile telephone.¹

In Rydbek a controller 160 has knowledge of which communication protocols are supported by the mobile telephone 100 based on which communications modules 120 are attached to the converter 110. Thus, the controller 160 determines which communication networks 200 are available in the current location of the mobile telephone 100. When communication is to be established with the mobile telephone 100, the controller 160 selects one of the communication networks 200 and connects the man machine interface 105 via interface 230 and switch 120.² When communication is to be established with a mobile telephone, the controller selects a network and associated communications module (step 330) based on any pre-programmed criteria. Examples of this pre-programmed criteria described in Rydbek include a user selected priority or priority based on cost.³

However, contrary to the Official Action, Rydbak fails to disclose or suggest a software acquisition unit configured to acquire ***via a network*** another communication software package stored ***in a remote server*** provided in the shared communication system. In

¹ Rydbek, Abstract.

² Rydbek, column 3, lines 35-51 and column 4, lines 50-66.

³ Rydbek column 5, lines 39-43.

rejecting now-cancelled Claim 3, the Official Action points to Rydbak col. 3, line 35 – col. 4, line 32. Within this citation is the following description:

Functionality which is common to different network protocols is located *within the converter 110* and thus not duplicated while functionality which is unique to a particular network protocol or which is not easily shared between different communication modules 120 is contained within the communication modules 120. The communication modules 120 are easily connected and disconnected from the converter 110 and a subscriber can equip the mobile telephone 100 to operate in various communication networks. Furthermore, the subscriber can purchase additional communication modules 120 as new communication network protocols are introduced. Alternatively, the plurality of connectors 170 can be replaced with a wireless communication link using radio frequencies such as infrared.

Applicants submit that converter 110 is not a remote server which is accessed via a network, as recited in Applicants' independent claims.

Applicants have considered Molne and submit Molne does not cure the deficiencies of Rydbak. MPEP §706.02(j) notes that to establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. Also, the teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). Without addressing the first two prongs of the test of obviousness, Applicants submit that the Official Action does not present a *prima facie* case of obviousness because both Rydbak and Molne fail to disclose all the features of Applicants' invention as recited in amended Claim 1.

Regarding Claims 5 and 6, Korpela describes a mobile terminal 10 having multiple alternative protocol stacks (151, 152...) which correspond to the protocols used on mobile

backbone networks (30a-30c) to which the mobile terminal can obtain access. A radio access network 20 broadcasts signals 102 indicating the types of backbone network to which it is connected, and on counteracting a signal indicating a new type of backbone network, a mobile terminal 10 may download a new protocol stack from the radio access network.⁴ The mobile terminal 10 may, in idle mode, detect network identification and network type signals from a plurality of backbone networks via each radio access network. When a user wishes to initiate a session, either a voice call or a data session using a computer, etc., the terminal control device 15 determines the type of session (i.e., the application) and selects the best available protocol to use (if several different data formats could support possession). According to Korpela, the choice may take into account cost and quality of service factors discussed in [non-applied] PCT application WO 96/28947.

However, like Rydbek and Molne, Korpela fails to disclose or suggest identifying a software acquisition unit configured to acquire *via a network* another communication software package stored *in a remote server* provided in the shared communication system.

As none of the cited prior art, individually or in combination, disclose or suggest all the elements of independent Claims 1, 5 and 6, Applicants submit the inventions defined by Claims 1, 5 and 6, and all claims depending therefrom, are not rendered obvious by the asserted references for at least the reasons stated above.⁵

⁴ Korpela, Abstract.

⁵ MPEP § 2142 "...the prior art reference (or references when combined) must teach or suggest **all** the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. In re Vaack, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991)."

Accordingly, in view of the present amendment and in light of the previous discussion, Applicants respectfully submit that the present application is in condition for allowance and respectfully request an early and favorable action to that effect.

Respectfully submitted,

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